REMARKS

This Amendment is filed in response to the Office Action mailed Jan. 25, 2007. All objections and rejections are respectfully traversed.

Claims 1-24 are pending in the case.

No claims have been amended.

No claims have been added.

Claim Rejections - 35 U.S.C. §101

At paragraph 6-7 of the Office Action, claims 18-23 were rejected under 35 U.S.C. §101. Specifically, the Office Action states "[p]age 25, lines 29-30 of the Specification of the instant application describes that the present invention can be implemented as software, thereby rendering the "means for" language in claims 18-23 as computer software... Therefore, given the claims their broadest reasonable interpretation, while keeping the structure disclosed in the specification in mind, one of ordinary skill in the art would construe claims 18-23 as representing a computer program *per se.*"

The Applicant respectfully requests reconsideration of this rejection. MPEP §2106.01(I) discusses computer listings *per se* and provides highly relevant guidance relating to this rejection. The section reads in part (emphasis added):

> Computer programs are often recited as part of a claim. ***USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim.*** The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. ***Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.***

Thus, the MPEP section makes clear that as long as a claim as a whole is directed to "an otherwise statutory machine or manufacture," and not only to computer programs as a mere listing, the claim should be considered statutory, irrespective of whether one or more elements are computer programs.

The Applicants claim 18, representative of claims 18-23, is clearly directed as a whole to a "statutory machine or manufacture" and not only to computer programs as listings. Claim 18 reads "An ***apparatus*** that implements port-based network access control at a shared media port, the shared media port being coupled to a plurality of client nodes..." An ***apparatus*** is a physical structure that falls squarely within the category of a "statutory manufacture or machine." As such, even if one or more of the means-plus-function elements of the claim are interpreted as computer programs or a portions of a computer program, the claim at a whole is directed to more than just computer programs, as an ***apparatus*** is specifically recited.

Accordingly, the Applicant respectfully urges that the claims satisfy the requirements of 35 U.S.C. §101 in light of the guidance provided by the MPEP.

Claim Rejections - 35 U.S.C. §103

At paragraphs 9-14 of the Office Action, claims 1-4, 14, 18, and 24 were rejected under 35 U.S.C. §102(e) over Roese, U.S. Patent Application No. 2004/0158735 (hereinafter Roese).

The Applicant notes that Roese was filed on Oct. 17, approximately 1 ½ months before the Applicant's filing date. While the Applicant does not admit Roese has actual prior art status, even assuming arguendo that Roese is prior art, the reference would not anticipate or make obvious the Applicant's claims as explained below.

The Applicant's claim 1, representative in part of the other rejected claims, sets forth:

1. A method for implementing port-based network access control at a shared media port in an intermediate node, the shared media port being coupled to a plurality of client nodes, the method comprising:

partitioning the shared media port into a plurality of logical subinterfaces, each logical subinterface dedicated to providing access to a different network or subnetwork accessible through the intermediate node;

receiving a data packet at the shared media port from a first client node;

associating the received data packet with a first logical subinterface in the plurality of logical subinterfaces;

determining whether the first client node is authenticated to communicate over the first logical subinterface's dedicated network or subnetwork; and

if the first client node is determined to be authenticated to communicate over the first logical subinterface's dedicated network or subnetwork, forwarding the received data packet over the first logical subinterface's dedicated network or subnetwork.

Roese discusses a port-based authentication scheme that follows the IEEE 802.1X standard. A "network infrastructure device" has at least one "network access port" that is associated with a "logical controlled port" and a "logical uncontrolled port." *See* paragraphs 0011 and 0012. If an attached function (i.e. a device) is not authenticated, it may only communicated through the uncontrolled logical port. Upon authentication of the attached function (i.e. device), the logical controlled port is enabled for use. *See* paragraph 0012. In effect, the network access port may have two states, one where the logical uncontrolled port is used (i.e. an uncontrolled state), and one where the logical controlled is used (i.e. a controlled state) *See* paragraphs 0012 and 0015.

The Applicant respectfully urges that Roese is silent concerning Applicants claimed "***partitioning the shared media port into a plurality of logical subinterfaces, each logical subinterface dedicated to providing access to a different network or subnetwork accessible through the intermediate node***" and "***determining whether the first client node is authenticated to communicate over the first logical subinterface's dedicated network or subnetwork.***"

While the Applicant partitions a port into a plurality ***of logical subinterfaces*** that are each dedicated to ***a different network or subnetwork***, and provides access control using the logical subinterfaces, Roese simply describes that a "network access port" uses either a logical uncontrolled port or logical controlled port for communication. As the Applicant makes clear in the claims, a ***logical subinterface*** is dedicated to providing access to a particular network or subnetwork. In effect, a ***logical subinterface*** is bound to the particular network or subnetwork. For example, the specification describes that a ***logical subinterface*** may be differentiated from another by IP address spaces or VLAN identifies. *See* page 14 lines 28 - page 15, lines 2. In contrast, a logical port is not generally considered bound to a particular network, but rather is descriptive of a port itself. For example, logical ports are commonly differentiated by a Port ID number.

Accordingly, the Applicant respectfully urges that Roese is legally insufficient to anticipate the present claims under 35 U.S.C. §102 because of the absence of the Applicant's claimed novel "***partitioning the shared media port into a plurality of logical subinterfaces, each logical subinterface dedicated to providing access to a different network or subnetwork accessible through the intermediate node***" and "***determining whether the first client node is authenticated to communicate over the first logical subinterface's dedicated network or subnetwork.***"

Claim Rejections - 35 U.S.C. §103

At paragraphs 15-29 of the Office Action, claims 15, 8, 9, 11, 13, 15 17, 19 and 21-23 were rejected under 35 U.S.C. §103(a) over Roese in view of Kwan et al., U.S. Patent Application No. 2005/0055570 (hereinafter Kwan).

At paragraphs 30-36 of the Office Action, claims 6 and 10 were rejected under 35 U.S.C. §103(a) over Roese in view of Kwan, in further view of Ng. et al., U.S. Patent Application No. 2005/0177865 (hereinafter Ng).

At paragraphs 37-40 of the Office Action, claims 6 and 10 were rejected under 35 U.S.C. §103(a) over Roese in view of Haverinen et al., U.S. Patent Application No. 2004/0208151 (hereinafter Haverinen).

At paragraphs 41-44 of the Office Action, claim 13 was rejected under 35 U.S.C. §103(a) over Roese in view Kwan and in further view of Inoue et al., U.S. Patent No. 6,891,819 (hereinafter Inoue).

The Applicant notes that all of the claims rejected under U.S.C. §103 are dependent claims which depended from independent claims believed to be allowable. Accordingly, the dependent claims are also believed to be allowable.

Should the Examiner believe telephonic contact would be helpful in the disposition of this Application, the Examiner is encouraged to call the undersigned attorney at (617) 951-2500.

In summary, all the independent claims are believed to be in condition for allowance and therefore all dependent claims that depend there from are believed to be in condition for allowance. The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

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